

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

BRIAN GUILFORD, as Personal Representative
of the Estate of Deven Guilford,

Plaintiff,

v.

Case No. 15-1053
Hon. Paul L. Maloney
Mag. Ray Kent

SGT. JONATHON FROST,
in his individual capacity

Defendants.

Exhibit 10

Frost Deposition Transcript

In The Matter Of:

Brian Guilford, et al. v. Eaton County, et al.

Sergeant Jonathon Frost

September 9, 2016



Court Reporting and Video

Sergeant Jonathon Frost
September 9, 2016

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN

BRIAN GUILFORD, as
Personal Representative
of the Estate of Deven
Guilford,

Plaintiff,

vs.

EATON COUNTY and
SGT. JONATHON FROST, in
his individual capacity,
jointly and severally,

Defendants.

CASE NO. 15-1053

HONORABLE PAUL MALONEY

The Videotape Deposition of
SERGEANT JONATHON FROST, taken before me,
Patricia J. Hankerd, CSR-5430, Notary Public for the
County of Jackson, on Friday, September 9, 2016, at
822 Centennial Way, Suite 270, Lansing, Michigan,
commencing at or about 10:45 a.m.

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1 APPEARANCES:

2 CONSTITUTIONAL LITIGATION ASSOCIATES, P.C.

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9 Appearing on Behalf of the Plaintiff.

10

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17

18 Appearing on Behalf of the Plaintiff.

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27 Appearing on Behalf of the Defendants.

28

29

30 ALSO PRESENT:

31 MR. BRIAN GUILFORD

32 MR. CHRISTOPHER DELACRUZ, Videographer

33

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35

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1 Friday, September 9, 2016

2 Lansing, Michigan

3 10:45 a.m.

4 (Exhibit Nos. 1 through 4 were
5 marked.)

6 THE VIDEOGRAPHER: We're now on record. This is
7 the video deposition of Sergeant Jonathon Frost.
8 Today's date is Friday, September 9th, 2016. The time
9 is 10:45:58 a.m. We are located at 822 Centennial Way
10 Suite 270, Lansing, Michigan.

11 We're here in the matter of Brian Guilford as
12 personal representative of the estate of
13 Deven Guilford versus Eaton County and
14 Sergeant Jonathon Frost. Case No. 15-CV-1053 for the
15 United States District Court, Western District of
16 Michigan being held before the Honorable Paul Maloney.

17 My name is Chris Delacruz video technician for
18 Carroll Court Reporting and Video. Will the court
19 reporter please swear the witness, and counsel briefly
20 identify themselves for the record.

21 SERGEANT JONATHON FROST,
22 the witness, being sworn by the Notary Public to
23 tell the truth, the whole truth and nothing but the
24 truth, testified as follows:

25 MR. DAVIS: Hugh Davis for Plaintiff.

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1 MR. PHILO: John Philo from Constitutional
2 Litigation Associates for the Plaintiff.

3 MS. HEENAN: Cynthia Heenan for the Plaintiff.

4 MR. GRAVES: Jim Graves for the Plaintiff.

5 MR. DYER: James Dyer for the Defendants.

6 MR. DAVIS: We're ready?

7 THE VIDEOGRAPHER: Yes, sir.

8 MR. DAVIS: All right.

9 Sergeant Frost, my name is Hugh Davis. I'm one
10 of the attorneys for the estate of Deven Guilford, and
11 I'll be doing the questioning. If you think I don't
12 understand an answer -- I am, in fact, bilaterally --
13 clinically deaf; and therefore, I do misunderstand a
14 lot. Secondly, if you don't understand the question
15 that I ask, please ask me to explain it again and so
16 that you're clear on whatever it is you're answering.

17 EXAMINATION

18 BY MR. DAVIS:

19 Q. Your full name?

20 **A. Jonathon Michael Frost.**

21 Q. Are you employed?

22 **A. Yes, I'm employed.**

23 Q. By whom?

24 **A. The Eaton County Sheriff's Office.**

25 Q. For how long?

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1 **A. I've been with the Easton County Sheriff's Office for**
2 **ten years.**

3 Q. Were you employed before that?

4 **A. I was employed as a -- yes, I was.**

5 Q. Where?

6 **A. I was employed through college at Lone Star Steakhouse**
7 **in Mt. Pleasant.**

8 Q. Okay. And where did you go to college?

9 **A. I went to college at Mid-Michigan Community College.**

10 Q. And did you take a degree?

11 **A. Yes.**

12 Q. And did you have a specialty or a major that you took
13 your degree in?

14 **A. Yes. I got my associate's degree in criminal**
15 **justice.**

16 Q. Was that the only institution of higher learning that
17 you attended after high school?

18 **A. Yes.**

19 Q. And when and where did you graduate from high
20 school?

21 **A. I graduated from Greenville High School in 1999.**

22 Q. Where is Greenville?

23 **A. Greenville is approximately 45 minutes northeast of**
24 **Grand Rapids.**

25 Q. Okay. And these questions are not ones that will

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1 likely come into the trial, but are you married?

2 **A. Yes.**

3 Q. And do you have children?

4 **A. Yes.**

5 Q. Have you been married more than once?

6 **A. No.**

7 Q. When you were in high school, did you have
8 employment?

9 **A. Yes.**

10 Q. What?

11 **A. I worked at a Pizza Hut, and I worked at an animal
12 clinic.**

13 Q. Have you ever given a deposition before?

14 **A. Yes.**

15 Q. Under what circumstances?

16 **A. I gave a deposition for an accident claim. I was one
17 of the responding officers to a personal injury
18 accident, and I was subpoenaed for a deposition at
19 that time.**

20 Q. Okay. So that was a personal injury case involving
21 third parties and not involving you in your official
22 capacity?

23 **A. Yes.**

24 Q. Is that the only time you've been deposed before?

25 **A. Yes.**

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1 Q. In preparation for today's deposition, can you tell me
2 what, if any, materials you reviewed?

3 A. I met with my attorney. We reviewed the video of my
4 traffic stop, and we answered and went over some other
5 materials. I didn't read anything, but we just spoke
6 about the case.

7 Q. Okay. You wrote a report in this matter, did you
8 not?

9 A. Yes, I did.

10 Q. Did you review that in preparation for today's
11 deposition?

12 A. No, I didn't.

13 Q. Is that because you didn't think you needed to or it
14 just didn't occur to you?

15 A. I just didn't review it. I haven't reviewed anything
16 pertaining to this case really.

17 Q. Prior to today but since the incident itself, you have
18 been interviewed or given statements regarding the
19 incident, have you not?

20 A. Yes.

21 Q. Can you tell me when, where, to whom, and on how many
22 occasions?

23 A. The -- let me think. I was interviewed for an
24 internal investigation. I don't remember the exact
25 date. I was spoken to by Captain Campbell who was

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1 doing the internal -- internal affairs
2 investigation.

3 Q. Okay. And that's the only one?

4 A. Yes.

5 Q. Are you aware that there was a Michigan State Police
6 investigation into this incident?

7 A. Yes.

8 Q. Were you interviewed in connection with that?

9 A. I was not directly interviewed. I was asked some
10 questions the night of the incident.

11 Q. When you say asked some questions, you mean through
12 the chain of command or by an MSP officer?

13 A. By a detective, I believe.

14 Q. I'm sorry?

15 A. By a detective, I believe.

16 Q. MSP?

17 A. Yes, sir.

18 Q. Did that take place at the Eaton County Sheriff's
19 Department or at an MSP post?

20 A. That took place at the hospital immediately following
21 the incident.

22 Q. I see. And is that the only time you've spoken with
23 the MSP?

24 A. Yes.

25 Q. Do you agree that the flashing of lights at an

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1 oncoming vehicle is legal?

2 MR. DYER: Object to the foundation, and it calls
3 for a legal conclusion.

4 Answer to the best of your ability.

5 THE WITNESS: I'm sorry, can you ask me again?

6 BY MR. DAVIS:

7 Q. Two vehicles are approaching each other in opposite
8 directions, let's say, on a two-lane road. For
9 whatever reason, one or both of them flash their light
10 at the other. Is there anything illegal about that?

11 MR. DYER: Object to the question based upon lack
12 of foundation.

13 THE WITNESS: Yes.

14 BY MR. DAVIS:

15 Q. Huh?

16 A. It is illegal.

17 Q. It is illegal to flash lights?

18 A. Yes.

19 Q. And you base that on?

20 A. Michigan law.

21 Q. So according to you, any time vehicles flash their
22 lights at each other, it's illegal?

23 A. Yes.

24 Q. And is that because you were trained that way?

25 A. That is the way that I understand the Michigan law

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1 that covers the activation of high beams towards an
2 oncoming vehicle within 500 feet.

3 Q. Do you distinguish between steady activation of high
4 beams and/or flashing lights to get the other vehicle
5 to cut down their high beams?

6 A. As -- I'm trying to understand your question.

7 Q. Okay.

8 A. Whether the high beams are steadily on or whether they
9 are they're flashing, my interpretation is that they
10 are both illegal actions according to the Michigan
11 Motor Vehicle Code.

12 Q. So nobody should ever flash their lights?

13 A. Correct.

14 MR. DYER: That question assumes there's an
15 oncoming vehicle, of course?

16 MR. DAVIS: I'm sorry?

17 MR. DYER: That question assumes there was an
18 oncoming vehicle, of course?

19 MR. DAVIS: I'm real deaf.

20 MR. DYER: Your previous question assumed that
21 there was an oncoming vehicle. I assume that question
22 also assumes there was an oncoming vehicle?

23 MR. DAVIS: Yes, you're right.

24 BY MR. DAVIS:

25 Q. Is there anything a driver can do to attempt to get an

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1 on coming vehicle to lower their high beams if they
2 are within 500 feet and obstructing the vision of the
3 vehicle which is being driven toward it?

4 **A. The safest thing a driver can do when faced with a**
5 **situation like that is to not operate their high beams**
6 **than take the risk of having both drivers having**
7 **difficulty seeing. Instead, it's my understanding,**
8 **that the driver should look at the fog line and use**
9 **that as a reference to continue in their current**
10 **direction.**

11 Q. Is that a part of your training?

12 **A. No.**

13 Q. You did go to a police training academy, did you
14 not?

15 **A. Yes.**

16 Q. Where?

17 **A. I went to Mid-Michigan Police Academy at Delta College**
18 **in Bay City.**

19 Q. And how long was that course?

20 **A. That course was part of my associate's degree, and the**
21 **course ran for a semester of college.**

22 Q. During that course, was any part of it traffic
23 enforcement?

24 **A. Yes.**

25 Q. And did any part of it touch on the topic which we've

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1 been discussing which is the handling of high beams of
2 approaching vehicles?

3 **A. That was a long time ago, and I can't say for sure**
4 **whether we covered that specific topic or not.**

5 Q. Okay. Are you familiar with an organization called
6 MCOLES?

7 **A. Yes.**

8 Q. What is it?

9 **A. The MCOLES is the Michigan Certification on Law**
10 **Enforcement Standards.**

11 Q. Okay. And did you get MCOLES certification?

12 **A. I was MCOLES certifiable coming out of the academy.**

13 Q. Since you joined the Eaton County Sheriff's
14 Department, I take it that you have either regular or
15 periodic training updates?

16 **A. Yes.**

17 Q. Since you've been a member of the department, have any
18 of those updates had to do with traffic enforcement?

19 **A. There are a lot of different aspects of traffic**
20 **enforcement. Are you referring to -- what aspect**
21 **exactly are you referring to that you would like me to**
22 **discuss.**

23 Q. Well, the first question is: Does any of it have to
24 do with traffic enforcement?

25 **A. Yes.**

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1 Q. Okay. What aspects of traffic enforcement training do
2 you recall receiving since being employed by the
3 Sheriff's Department?

4 A. I have received training on sobriety tests related to
5 traffic enforcement. I have received training on
6 officer safety related to traffic enforcement and --

7 Q. What does that mean?

8 A. How to properly approach a car, how to watch for
9 traffic when on a traffic stop.

10 Q. Okay. Go ahead.

11 A. As far as the specifics related to law, I don't
12 specifically remember any at this time.

13 Q. Okay. Does the Eaton County Sheriff's Department on
14 occasion issue bulletins?

15 A. Yes.

16 Q. Okay. And what are the nature of those bulletins?

17 A. There's numerous natures of the bulletins from legal
18 updates to lookouts to anything that the State Police
19 or other police agencies in the area choose to
20 share.

21 Q. Okay. When you say legal developments, you mean
22 changes in the law or legislative alerts --

23 A. Correct.

24 Q. -- that might affect your job?

25 A. Yes.

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1 Q. Other than to your attorney and your interview by
2 internal affairs with the Sheriff's Department after
3 this incident and the interview at the hospital with
4 the Michigan State Police, have you ever given any
5 other statements regarding this incident?

6 A. No.

7 Q. Has it been a matter of, let's say, station house
8 discussions at the department?

9 A. To an extent, yes.

10 Q. In what aspect?

11 A. People ask me how I'm doing. Of course, it's just
12 like any other organization. At times people like to
13 talk and figure out what happened and see what's going
14 on.

15 Q. Okay. When you first came to the department, did you
16 come -- you came as a certified officer; is that
17 right?

18 A. No, that is not. I came to the department as a
19 certifiable officer. I needed to be employed before
20 getting certified through MCOLES.

21 Q. Okay. And how long did that take?

22 A. Once I began my employment and made it through the
23 training process I was certified in a certain amount
24 of time.

25 Q. Two or three months?

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1 **A.** I don't recall remember exactly how long the MCOLES --
2 I don't know if it's instant you're certified or if
3 it's a certain amount of time or through probation. I
4 don't know exactly how that works.

5 **Q.** Whenever the certification kicked in, as you put it,
6 were you then a patrol officer?

7 **A.** Yes.

8 **Q.** And how long did you remain in that role?

9 **A.** I remained as a patrol officer until getting promoted
10 to sergeant.

11 **Q.** I'm sorry?

12 **A.** I -- I remained as a regular deputy until getting
13 promoted to sergeant.

14 **Q.** Okay. And how long was that?

15 **A.** Approximately eight years.

16 **Q.** Did you have any other special assignments such as
17 plain clothes, narcotics, other particularized roles
18 other than patrol officer during those eight years?

19 **A.** I did do some work with our organization that we tried
20 to work with, with the Lansing violent crimes unit.
21 We did that. I worked as a specified traffic
22 enforcement deputy with the traffic division in
23 Delta Township.

24 **Q.** What is a specialized traffic enforcement --

25 **A.** My job was to enforce or recognize traffic violations

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1 and help reduce the amount of accidents happening in
2 Delta Township.

3 Q. How do you do that?

4 A. My job was traffic enforcement. It was to either be
5 in the car or on the motorcycle recognizing traffic
6 violations and then enforcing those as necessary.

7 Q. Okay. Other than that, did you have any specialized
8 assignments?

9 A. Outside of my normal duties as a deputy, I have
10 certain certifications; but they're not necessarily my
11 primary responsibility.

12 Q. What are them?

13 A. I am a member of our special response team. I am an
14 evidence technician. I'm a field training officer.
15 I'm a member of our honor guard. I am the human bias
16 instructor for our department.

17 Q. I'm sorry?

18 A. Human bias.

19 Q. What is that?

20 A. The bias training? It's to help police officers
21 understand that everybody, not just police officers
22 exhibit some kind of human bias, and it is a training
23 program brought forth by our sheriff to help our
24 officers understand when bias may be coming into play
25 and how to circumvent that situation.

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1 Q. Okay. These specialties and/or special assignments,
2 were they things for which you volunteered?

3 A. Some of them were voluntary, the majority of them.
4 The only one that I don't believe that I fully
5 volunteered for was maybe the evidence technician
6 position, but I willingly took it on.

7 Q. Okay. A few questions back you talked about -- if I
8 heard correctly -- the Lansing area violent crimes
9 task force. Maybe I got it wrong but something like
10 that?

11 A. Yes.

12 Q. Okay. And was that something that you were the only
13 Eaton County deputy or officer assigned to, or were
14 there numerous ones?

15 A. There were two or three depending on manpower. It was
16 a pilot program to help combat some of the more
17 heinous crimes that may be affecting Delta Township
18 and the Lansing area.

19 Q. And that was a multi-jurisdictional task force with
20 officers from various departments?

21 A. No. It was specifically within the deputies of
22 Delta Township; and at times we would work with the
23 units from Lansing. But it wasn't
24 multi-jurisdictional as far as that goes.

25 Q. Give me some idea of what it actually entailed.

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1 **A.** A lot of it we were having some problems at the local
2 Motel 6 with lots of prosecution, lots of drug deals.
3 Our job was to be an impact team on the area whether
4 it be on foot, in vehicles and try to either make
5 arrests or develop investigations that would remove
6 the problems that we were having.

7 **Q.** Also a few questions back, you indicated that you
8 either are or were a part of the county special
9 response force or team?

10 **A.** **Yes.**

11 **Q.** Is that a SWAT team?

12 **A.** **Yes.**

13 **Q.** Are you still in that capacity?

14 **A.** **Yes.**

15 **Q.** And is it a regular occurrence that you're -- you're
16 required to act in that role or is it an unusual?

17 **A.** It depends from year to year. This year we've had
18 minimal call-outs. I want to say we've been activated
19 three or four times. We do hold monthly trainings to
20 work on tactics and work as a team. So it's -- it's
21 hit or miss as to when we actually get called out and
22 when we don't.

23 **Q.** All right. Sergeant, first, I'm going to now direct
24 your attention to the incident with Deven Guilford.

25 All right?

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1 A. (Witness moves head up and down.)

2 Q. I take it you recall it?

3 A. Yes, sir.

4 Q. Throughout the entire incident, did you ever see
5 Mr. Guilford with a weapon?

6 A. No.

7 Q. Did you ever think or fear that he had a weapon that
8 you couldn't see?

9 A. I didn't know.

10 Q. Did you consider it?

11 A. I considered it a possibility, yes.

12 Q. Okay. And when you said you didn't know, did you ever
13 pat him down?

14 A. No.

15 Q. When you decided to order him out of the car, he
16 ultimately complied, right?

17 A. Yes.

18 Q. Why didn't you pat him down then?

19 A. I never had an opportunity.

20 Q. He got out of the car?

21 A. Yes.

22 Q. And instead of saying go around to the front of the
23 car or the other side of the car and put your hands on
24 the hood, you could have done that, couldn't you?

25 A. Based on the situation I was in, I didn't believe that